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BC032035

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SUPERIOR COURT FOR THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

RELIGIOUS TECHNOLOGY CENTER,
A California Non-Profit Religious
Corporation; CHURCH OF SCIENTOLOGY
INTERNATIONAL, a California
Non-Profit Religious Corporation;
and CHURCH OF SCIENTOLOGY OF
CALIFORNIA, a California
Non-Profit Religious Corporation,

Plaintiffs,

vs.

JOSEPH A. YANNY, an individual;
JOSEPH A. YANNY, a professional Law
Corporation and DOES 1 THROUGH 25
inclusive,

Defendants.

NO.

VERIFIED COMPLAINT FOR
DAMAGES AND FOR
TEMPORARY, PRELIMINARY
AND PERMANENT
INJUNCTIVE RELIEF FOR
BREACH OF FIDUCIARY
DUTY

YANNY EXHIBIT 1
FOR IDENTIFICATION
JAN W. SERRA, C.S.R.

DATE: 3-10-92

1 Plaintiffs RELIGIOUS TECHNOLOGY CENTER, CHURCH OF
2 SCIENTOLOGY INTERNATIONAL and CHURCH OF SCIENTOLOGY OF
3 CALIFORNIA, for their Verified Complaint against defendants,
4 JOSEPH A. YANNY and JOSEPH A. YANNY, A PROFESSIONAL LAW
5 CORPORATION, allege as follows:

6 1. This action arises from direct, overt, and intentional
7 breaches by defendants of the perpetual duties of loyalty and
8 confidentiality which a member of the Bar of the State of
9 California owes as fiduciary obligations to his former clients.
10 Since entry of judgment in Religious Technology Center, et al.
11 v. Joseph A. Yanny, et al., Los Angeles Superior Court Case
12 No. C 690 211, on February 28, 1991, defendants have flagrantly
13 violated those fiduciary duties by openly assuming
14 representation, as counsel of record and otherwise, of clients
15 in legal matters in a manner that directly contravenes
16 plaintiffs' statutory rights. By this action, plaintiffs seek
17 to enjoin their former counsel from committing further
18 breaches of his ongoing fiduciary duties and to obtain damages
19 for those breaches which he has committed, as is further alleged
20 with particularity herein.

21 THE PARTIES

22 2. Plaintiff RELIGIOUS TECHNOLOGY CENTER ("RTC") is, and
23 at all relevant times was, a not-for-profit religious
24 corporation organized and existing under the laws of the State
25 of California with its principal office in Los Angeles,
26 California.

27 3. Plaintiff CHURCH OF SCIENTOLOGY INTERNATIONAL ("CSI")
28 is, and at all relevant times was, a California not-for-profit

1 religious corporation organized and existing under the laws of
2 the State of California with its principal office in Los
3 Angeles, California.

4 4. Plaintiff CHURCH OF SCIEN TOLOGY OF CALIFORNIA ("CSC")
5 is, and at all relevant times was, a California not-for-profit
6 religious corporation organized and existing under the laws
7 of the State of California with its principal office in Los
8 Angeles, California.

9 5. Defendant JOSEPH A. YANNY is, and at all relevant
10 times was, an attorney licensed to practice law in the State of
11 California. Yanny is a resident of Hermosa Beach, California.

12 6. Defendant JOSEPH A. YANNY, A PROFESSIONAL LAW
13 CORPORATION is, and at all relevant times was, a professional
14 corporation organized and existing under the laws of the State
15 of California, with its principal office in Los Angeles,
16 California. Defendants JOSEPH A. YANNY and JOSEPH A. YANNY, A
17 PROFESSIONAL LAW CORPORATION, shall hereinafter be referred to
18 collectively as "Yanny."

19 7. Plaintiffs are ignorant of the names and capacities of
20 the defendants identified as DOES 1 through 25, inclusive, and
21 thus brings suit against those defendants by those fictitious
22 names. Plaintiffs will seek leave of Court to amend this
23 Complaint to include those defendants by their true names upon
24 the ascertainment of their true names and capacities, and their
25 responsibility for the conduct alleged herein.

26 DEFENDANTS' HISTORY AS PLAINTIFFS' COUNSEL

27 8. Yanny formerly represented and appeared as counsel of
28 record for the plaintiffs in a number of litigation matters,

1 including, Religious Technology Center, et al. v. Scott,
2 et al. and Religious Technology Center, et al. v.
3 Wollersheim, et al., (United States District Court for the
4 Central District of California, Civil Action Nos. 85-711 and
5 85-7197 JMI(Bx)) (hereinafter "RTC v. Scott"); Church of
6 Scientology International, et al. v. The Elmira Mission of
7 the Church of Scientology, et al., (United States District
8 Court for the Western District of New York, Civil Action No.
9 85-0412(T), and United States Court of Appeals for the Second
10 Circuit No., 85-7693); Church of Scientology of California
11 v. David Jordan, et al., Superior Court of the State of
12 California for the County of Los Angeles, No. C 538 049; and
13 Clay Eberle, et al. v. Church of Scientology of
14 California, Superior Court of the State of California for the
15 County of Los Angeles, No. NCC 16648G.

16 9. Yanny represented RTC, CSI and CSC, as their attorney,
17 extensively often approaching a full-time basis, for
18 approximately four years, between 1983 and 1987.

19 Indeed, Yanny has testified under oath to the extensive and
20 in-depth character of the responsibilities he assumed as legal
21 counsel for plaintiffs, characterizing his various duties and
22 responsibilities as follows:

23 (a) "[T]o control and oversee all of the litigation that
24 involved Scientology any place in the world ..."

25 (b) "I also oversaw the administrative side, what they call
26 the transactional side of their legal business where they enter
27 agreements with franchises or mission holders, depending on
28 where they were located;"

1 (c) "I oversaw prosecution of trademark applications all
2 over the world, United States, foreign countries. I reviewed
3 all of those things;

4 (d) "I was also to, if there were any flaps, as they were
5 called, any problems that arose, I was usually broached on what
6 the problem was, what was expected, and asked for solutions to
7 those types of things ..."

8 10. Throughout his legal representation of plaintiffs,
9 Yanny was regularly called upon by his clients to provide
10 advice, counsel, assistance, and judgment as a lawyer with
11 respect to litigation, transactional, and intellectual property
12 matters irrespective of whether he actually appeared as counsel
13 of record in such matters. As such, and throughout his tenure
14 as plaintiff's lawyer, Yanny was privy to and called upon to
15 provide, and did provide legal services to plaintiffs on
16 essentially all of plaintiffs' legal matters for nearly four
17 years. In exchange for the legal services so rendered, as set
18 forth in this and in the preceding paragraph of this Complaint,
19 Yanny was compensated at an hourly rate, ultimately in a
20 cumulative amount in excess of \$2 million.

21 11. Upon entering into this attorney-client relationship
22 with plaintiffs, Yanny assumed all of the fiduciary and ethical
23 obligations that are component parts of any attorney-client
24 relationship, including, without limitation, the duties of
25 loyalty, diligence, fidelity, honesty, and confidentiality.
26 Those obligations, by operation of statute, rule and common law,
27 embrace the following fiduciary duties, which represent a
28 selective, rather than all-inclusive list:

1 (a) to accept no employment adverse to plaintiffs'
2 interests in matters substantially related to his
3 representation of plaintiffs, either during or after the period
4 of the parties' actual attorney-client relationship; and

5 (b) to keep all communications and information provided by
6 plaintiffs or by plaintiffs' agents and employees in the cause
7 of the representation inviolate and confidential, both during
8 and after the period of the parties' actual attorney-client
9 relationship.

10 12. During the course of Yanny's legal representation of
11 plaintiffs, and in reliance upon the fiduciary obligations of
12 fidelity, loyalty, and confidentiality inherent in the
13 attorney-client relationship, plaintiffs divulged
14 extensive strategic, confidential, and proprietary information
15 to Yanny in the course of seeking and receiving legal advice
16 from Yanny. Information so divulged included, but was not
17 limited to, offensive and defensive legal strategies and
18 approaches to various and recurring legal claims; non-public,
19 financial information; confidential religious and scriptural
20 information, and various other confidential and proprietary
21 information that plaintiffs divulged to Yanny so that he could
22 perform competently as plaintiffs' legal counsel in the many
23 legal areas for which he had responsibility.

24 13. Yanny represented RTC, CSI, and CSC in several
25 lawsuits brought by former Scientologists in which those persons
26 sought recovery from plaintiffs or some of them upon theories of
27 fraud and intentional infliction of emotional distress. Yanny
28 was: (a) closely involved in the formulation and refinement of

1 legal strategies employed by plaintiffs to defendant against
2 such baseless claims; and b) routinely involved in, and called
3 upon to develop solutions for various legal issues, at
4 periodical attorney-client conferences in which counsel
5 representing Scientology churches discussed pending litigation,
6 legal strategies and the strengths and potential weaknesses of
7 the Scientology position in the various matters.

8 14. The attorney-client relationship between plaintiffs
9 and Yanny was terminated in or about December, 1987, although
10 by his failure to execute the appropriate Judicial Council
11 forms, Yanny remained counsel of record for CSC in two cases
12 thereafter.

13 15. Since on or about June 28, 1991, Yanny has appeared
14 as counsel of record for Vicki and Richard Aznaran in an action
15 being prosecuted by the Aznarans against RTC, CSI and others,
16 entitled, Vicki Aznaran et al vs. Church of Scientology of
17 California, and assigned case number C 88-1786 JMI (Ex) by the
18 United States District Court for the Central District of
19 California ("the Aznaran case.") During the pendency of an
20 earlier action in this Court entitled Religious Technology
21 Center et al. v. Joseph A. Yanny et al., case number C 690
22 211 ("Yanny 1"), Yanny was enjoined pendente lite from
23 representing or providing legal counsel to the Aznarans in the
24 Aznaran case. That provisional relief was lifted upon entry of
25 final judgment by this Court in Yanny 1 on February 28, 1991.
26 Like a number of substantially similar cases described in the
27 preceding paragraph of this Complaint, the Aznaran case is one
28 in which ex-Scientologists have sued these plaintiffs upon

1 theories of fraud and emotional distress. A motion to
2 disqualify Yanny from representing the Aznarans in the Aznaran
3 case is presently pending in that case.

4 16. During the time in which Yanny was plaintiff's
5 counsel, plaintiffs were actively engaged in litigation in the
6 matter of Church of Scientology of California v. Gerald
7 Armstrong, Los Angeles Superior Court Case Number C 420 153,
8 California Court of Appeal Case Number B 038 975.

9 Yanny's legal advice and counsel were sought and obtained
10 by plaintiffs with respect to Gerald Armstrong, including the
11 Armstrong case, settlement negotiations relating to it, partial
12 settlement thereof, and the appeal therefrom. Yanny also was
13 fully briefed upon, and his legal advice was sought and
14 obtained by plaintiffs concerning the ongoing disputes between
15 Armstrong and plaintiffs and the strategies to be employed by
16 plaintiffs in dealing with those disputes. On July 15, 1991,
17 Yanny and Armstrong informed a partner of the law firm
18 representing CSC in this action that Yanny was now Armstrong's
19 lawyer.

20 FIRST CAUSE OF ACTION

21 (Against all Defendants for Breach of Fiduciary Duty)

22 17. RTC, CSI and CSC repeat, reallege and incorporate
23 herein by this reference each and every allegation contained in
24 paragraphs 1 through 16, inclusive, of this complaint.

25 18. On April 1, 1988, Vicki Aznaran, the former president
26 of RTC, and her husband, Richard Aznaran, a former employee of

27 ///

28 ///

1 CSI, filed the Aznaran case, in which they seek damages from
2 plaintiffs upon theories that include fraud and emotional
3 distress. The Aznaran case raises many issues which are
4 substantially related to matters concerning which Yanny
5 represented plaintiffs, in particular, but without
6 limitation, the counterclaims against RTC, CSI and CSC in
7 RTC v. Scott, in which Yanny served as lead counsel for
8 plaintiffs.

9 19. The Aznaran case was initially filed on the
10 Aznarans' behalf by Barry Van Sickle, an attorney whom Yanny
11 located for the Aznarans and who also represented Yanny in
12 Yanny 1 in this Court. Mr. Van Sickle was disqualified by the
13 Court in the Aznaran case because he was "an extension of
14 Joseph Yanny's continuing involvement in [the Aznaran case],"
15 which the Court found to be improper. The Aznarans then
16 employed another counsel to represent them in that case until
17 June, 1991, when they discharged him.

18 20. On Friday, June 28, 1991, counsel for CSI, John J.
19 Quinn, received a telephone call from Yanny. In that call,
20 Yanny stated that he intended to substitute into the Aznaran
21 case as counsel for the Aznarans, and requested that Mr. Quinn
22 agree to an extension of "45 to 60 days" to oppose a pending
23 summary judgment motion. Mr. Quinn informed Yanny that he
24 considered Yanny's proposed representation of the Aznarans to be
25 outrageous and improper, and informed Yanny that he would
26 consult with his client and with co-counsel before agreeing to
27 anything.

28 21. When, on Monday, July 1, 1991, Mr. Quinn informed

1 Yanny that he still considered Yanny's proposed representation
2 unethical, and that neither he nor any of these plaintiffs would
3 agree to any such extension to permit Yanny to come into the
4 case, Yanny informed Mr. Quinn that he had already requested
5 and obtained the Aznaran Court's permission to represent the
6 Aznarans on an ex parte basis, without notice to any of the
7 opposing parties.

8 On July 2, 1991, Mr. Quinn checked with the clerk of the
9 Aznaran Court and found that the Court apparently signed
10 Yanny's substitution on or about June 28, 1991.

11 22. Counsel for RTC and CSI in that case promptly
12 prepared and, on July 3, 1991, filed, a motion to disqualify
13 Joseph Yanny from representing the Aznarans in the Aznaran
14 case. That motion is now pending.

15 23. While that motion to disqualify has been pending,
16 Yanny has filed several papers in the Aznaran case on behalf
17 of the Aznarans, made overtures to counsel for RTC, CSI, Church
18 of Spiritual Technology ("CST") and Author Services, Inc.
19 ("ASI") indicating a desire to discuss settlement on behalf of
20 the Aznarans, and otherwise conducted himself as the Aznarans'
21 counsel both of record and in fact.

22 24. As an attorney with a long-term, broad ranging
23 professional relationship with RTC, CSI, and CSC, Yanny owes a
24 fiduciary duty to RTC, CSI, and CSC that persists beyond the
25 termination of that relationship, in the same manner that all
26 attorneys owe such a duty to all of their clients, present and
27 former. That fiduciary duty creates obligations of the utmost
28 loyalty and confidentiality and the duty not to compromise the

1 interest of the former client.

2 25. Since at least June of 1991, Yanny has breached and
3 continues to breach his fiduciary duty to RTC, CSI, and CSC in
4 the manner and through the conduct set forth in this Complaint
5 in that Yanny, among other things:

6 (a) Counseled, advised, and otherwise provided legal
7 services to the Aznarans, who are persons with interests
8 adverse to plaintiffs in a matter substantially related to
9 matters in which Yanny formerly represented plaintiffs;

10 (b) Undertook direct representation of the Aznarans
11 against RTC, CSI, and other Scientology-affiliated
12 organizations as counsel of record in the Aznaran case in
13 direct violation of the fiduciary duty of loyalty that is
14 perpetual and sacrosanct with respect to a lawyer's former
15 clients; and

16 (c) Traded upon the attorney-client communications he
17 received while serving as plaintiff's lawyer by counseling and
18 advising the Aznarans and by serving as their attorney of record
19 and in fact, in direct violation of his perpetual fiduciary
20 duties of loyalty and confidentiality to his former clients.

21 26. As a direct and proximate result of Yanny's
22 persistent and continuing breaches of his fiduciary duties, RTC,
23 CSI, and CSC have been, are and will continue to be irreparably
24 harmed, and unless Yanny and those acting in concert with him
25 are temporarily, preliminarily, and permanently enjoined from
26 continuing that unlawful conduct, further irreparable injury
27 will be caused to RTC, CSI, and CSC.

28 27. RTC, CSI, and CSC have already incurred, and continue

1 to incur, damages as a direct and proximate result of Yanny's
2 conduct as alleged in this Complaint. Those damages are not
3 presently calculable and will cease only when Yanny is ordered
4 to stop his unlawful conduct. In no event, however, are they
5 less than \$1,000,000.00. Consequently, plaintiffs seek
6 compensatory damages according to proof.

7 28. Yanny's conduct is both oppressive and malicious and
8 has been undertaken for the express purpose of injuring
9 plaintiffs, his former clients. Accordingly, plaintiffs are
10 entitled to punitive and exemplary damages in an amount to be
11 determined at trial.

12 SECOND CAUSE OF ACTION

13 (Against All Defendants for Breach of Fiduciary Duty)

14 29. RTC, CSI and CSC repeat, reallege and incorporate
15 herein by this reference each and every allegation contained in
16 paragraphs 1 through 16, inclusive, of this Complaint.

17 30. On July 15, 1991, Yanny and Gerald Armstrong admitted
18 to a partner in the law firm representing CSC, Kendrick Moxon,
19 that Yanny had now undertaken legal representation of Armstrong.

20 31. Yanny knows that Armstrong is presently engaged in
21 litigation adverse to plaintiffs, including the appeal of
22 the very case in which Yanny's advice and counsel was sought and
23 obtained by CSC and by RTC, as alleged in paragraph 16 of this
24 Complaint.

25 32. As an attorney with a long-term, broad ranging
26 professional relationship with RTC, CSI, and CSC, Yanny owes a
27 fiduciary duty to RTC, CSI, and CSC that persists beyond the
28 termination of that relationship, in the same manner that all

1 attorneys owe such a duty to all of their clients, present and
2 former. That fiduciary duty creates obligations of the utmost
3 loyalty and confidentiality and the duty not to compromise the
4 interest of the former client.

5 33. Since at least July of 1991, Yanny has breached and
6 continues to breach his fiduciary duty to RTC, CSI, and CSC in
7 the manner and through the conduct set forth in this Complaint
8 in that Yanny, among other things:

9 (a) Counseled, advised, and otherwise provided legal
10 services to Armstrong, who is a person with interests
11 adverse to plaintiffs in a matter substantially related
12 to matters in which Yanny formerly represented
13 plaintiffs;

14 (b) Undertook direct representation of Armstrong against
15 RTC, CSI, and other Scientology-affiliated organizations in
16 direct violation of the fiduciary duty of loyalty that is
17 perpetual and sacrosanct with respect to a lawyer's former
18 clients; and

19 (c) Traded upon the attorney-client communications he
20 received while serving as plaintiff's lawyer by counseling and
21 advising Armstrong in direct violation of his perpetual
22 fiduciary duties of loyalty and confidentiality to his former
23 clients.

24 34. As a direct and proximate result of Yanny's
25 persistent and continuing breaches of his fiduciary duties, RTC,
26 CSI, and CSC have been, are and will continue to be irreparably
27 harmed, and unless Yanny and those acting in concert with him
28 are temporarily, preliminarily, and permanently enjoined from

1 continuing that unlawful conduct, further irreparable injury
2 will be caused to RTC, CSI, and CSC.

3 35. RTC, CSI, and CSC have already incurred, and continue
4 to incur, damages as a direct and proximate result of Yanny's
5 conduct as alleged in this Complaint. Those damages are not
6 presently calculable and will cease only when Yanny is ordered
7 to stop his unlawful conduct. In no event, however, are they
8 less than \$1,000,000.00. Consequently, plaintiffs seek
9 compensatory damages according to proof.

10 36. Yanny's conduct is both oppressive and malicious
11 and has been undertaken for the express purpose of injuring
12 plaintiffs, his former clients. Accordingly, plaintiffs are
13 entitled to punitive and exemplary damages in an amount to be
14 determined at trial.

15 WHEREFORE, plaintiffs pray for judgment as follows:

16 ON THE FIRST CAUSE OF ACTION
17 (REGARDING THE AZNARANS)

18 1. For a temporary restraining order, preliminary
19 injunction and a permanent injunction enjoining Yanny from
20 violating the fiduciary duties he owes to plaintiffs as a result
21 of their earlier attorney-client relationship.

22 2. For compensatory damages according to proof.

23 3. For punitive and exemplary damages in a sum to be
24 determined at trial.

25 ON THE SECOND CAUSE OF ACTION
26 (REGARDING ARMSTRONG)

27 1. For a temporary restraining order, preliminary
28 injunction and a permanent injunction enjoining Yanny from
violating the fiduciary duties he owes to Plaintiffs as a result

1 of their earlier attorney-client relationship.

2 2. For compensatory damages according to proof.

3 3. For punitive and exemplary damages in a sum to be
4 determined at trial.

5 ON ALL CAUSES OF ACTION:

6 1. For such other and further relief as the Court may
7 deem just and proper.

8 DATED: July 18, 1991

Respectfully submitted,

9
10 By: 15/

WILLIAM T. DRESCHER

11 Attorney for Plaintiff
12 RELIGIOUS TECHNOLOGY CENTER

13 John J. Quinn
QUINN, KULLY AND MORROW

14 Attorneys for Plaintiff
15 CHURCH OF SCIENTOLOGY
INTERNATIONAL

16 BOWLES & MOXON
17 Laurie J. Bartilson

18 Attorneys for Plaintiff
19 CHURCH OF SCIENTOLOGY OF
20 CALIFORNIA

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VERIFICATION

I, Warren McShane, am the Secretary of the Religious Technology Center, plaintiff in this action. I have read the foregoing Verified Complaint for Damages and for Temporary, Preliminary and Permanent Injunctive Relief for Breach of Fiduciary Duty and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 10th day of July, 1991, at Los Angeles, California.


WARREN MCSHANE

VERIFICATION

I, Lynn R. Farny, am the Secretary of the Church of Scientology International, plaintiff in this action. I have read the foregoing Verified Complaint for Damages and for Temporary, Preliminary and Permanent Injunctive Relief for Breach of Fiduciary Duty and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 12th day of July, 1991, at Los Angeles, California.


LYNN R. FARNY

1
2
3 VERIFICATION

4 I, Gail Armstrong, am the President of the Church of
5 Scientology of California, plaintiff in this action. I have
6 read the foregoing Verified Complaint for Damages and for
7 Temporary, Preliminary and Permanent Injunctive Relief for
8 Breach of Fiduciary Duty and know the contents thereof. The
9 same is true of my own knowledge, except as to those matters
10 which are therein stated on information and belief, and as to
11 those matters, I believe them to be true.

12 I declare under penalty of perjury that the foregoing is
13 true and correct. Executed this 17th day of July, 1991, at
14 Los Angeles, California.

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GAIL ARMSTRONG